

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

DAVID LORENZA JOYNER, #1230707        §  
    §  
VS.    § CIVIL ACTION NO. G-06-728  
    §  
THOMAS A. DAVIS, JR., ET AL.        §

**OPINION AND ORDER**

Before the Court is “Joyner’s Motion for a Protective Order/Sanctions and Oral Argument in Support and Interrogation by the Court and Parties.” Pursuant to this Motion, Joyner seeks a protective order and sanctions against the Defendants because their written discovery requests are not permitted, in his opinion, until after a “scheduling order has been made by the Court.” Joyner is a prisoner not easily available for Court hearings or meetings with opposing counsel, therefore, this Court, *sua sponte*, entered a Scheduling Order on January 30, 2007, setting deadlines for dispositive motions and responses. Under the circumstances, discovery requests were appropriate.

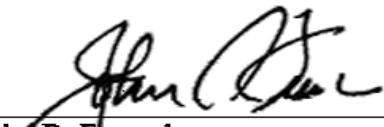
It is, therefore, the **ORDER** of this Court that “Joyner’s Motion for a Protective Order/Sanctions and Oral Argument in Support and Interrogation by the Court and Parties” (Instrument no. 14) is **DENIED**.

Joyner also filed “Joyner’s Petition for Declaratory Judgment or Partial Summary Judgment as a Matter of Law and Right.” Joyner’s attempt to file a petition for declaratory judgment is nothing more than an attempt to amend his complaint which this Court will not permit. (See Order denying Joyner’s Motion to Amend Complaint dated April 9, 2007) In addition, insofar as Joyner seeks to file a new civil action against new Defendants, he is precluded from doing so in federal court *in forma pauperis*. Joyner has in excess of “3-Strikes” under § 1915(g)

and, therefore, cannot bring a new civil action without payment of the full filing fee. Accordingly, Joyner's Motion to file any petition for declaratory judgment is **DENIED**.

In his "Fourth issues to be decided" Joyner appears to be seeking summary judgment as to certain defenses asserted by Defendant Bort. It is, therefore, **ORDERED** that Bort **SHALL** have until **May 4, 2007**, to file any response he deems appropriate.

**DONE** at Galveston, Texas, this       9th       day of April, 2007.



John R. Froeschner  
United States Magistrate Judge